

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOSEPH A. WHITE, AS ADMINISTRATOR  
OF THE ESTATE OF ROBERT E. WHITE,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

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**PROPOSED ADR AND  
DISCOVERY PLAN**

19-CV-599

The parties in the above-captioned action, by their undersigned counsel, hereby submit the following as their ADR Plan timeline and Proposed Discovery Plan:

Based on the Court's Alternative Dispute Resolution ("ADR") pilot program timeline, the parties agree to the following.

- (a) No later than **October 14, 2019**, the parties shall confer and select a mediator, confirm the mediator's availability, ensure that the mediator does not have a conflict with any of the parties in the case, identify a date and time for the initial mediation session, and file a stipulation confirming their selection on the form provided by the Court. If the parties fail to so stipulate, the Court shall appoint an ADR neutral.
- (b) Any motions to opt out of the ADR process shall be filed by **September 30, 2019**.
- (c) The initial mediation session shall be held no later than **December 9, 2019**.

- (d) The referral to mediation shall terminate on **February 3, 2020**. In the event that settlement is not reached, the case will progress toward dispositive motions/trial, as scheduled below.
- (e) The referral of this case to mediation will not delay or defer other dates contained in this Scheduling Order and has no effect on the progress of the case toward trial.

The parties further submit:

- 1. The parties have not consented to Magistrate Judge jurisdiction in this action.
- 2. The parties stipulate that they will exchange mandatory disclosures pursuant to F. R. Civ. P. Rule 26(a)(1) no later than **September 30, 2019**.
- 3. All motions to amend pleadings or add parties shall be filed on or before **November 19, 2019**.
- 4. All factual discovery, including depositions, shall be completed on or before **March 18, 2020**. All motions to compel discovery shall be filed at least thirty (30) days prior to the factual discovery cutoff.
- 5. Plaintiff shall identify any expert witnesses through interrogatories and provide reports pursuant to F. R. Civ. P. Rule 26 by **April 17, 2020**. Defendant shall identify any expert witnesses through interrogatories and provide reports pursuant to F. R. Civ. P. Rule 26 by **June 16, 2020**. All discovery relating to experts, including depositions shall be completed by **August 17, 2020**.
- 6. The parties, at this time, do not anticipate any Rule 26(c) orders.

7. The parties, at this time, do not contemplate any changes in the limitations in F. R. Civ. P. Rules 30(d)(2) or 33(a).
8. Dispositive motions, if any, shall be filed on or before **October 16, 2020**.
9. Trial is anticipated to take seven to ten (7-10) trial days.

Respectfully submitted,

Dated: August 28, 2019                      By: s/Thomas V. Hagerty,  
THOMAS V. HAGERTY, ESQ.  
*Attorney for Plaintiff*

JAMES P. KENNEDY, JR.  
United States Attorney  
Western District of New York

Dated: August 28, 2019                      By: s/Kathryn L. Smith  
KATHRYN L. SMITH  
Assistant U.S. Attorney  
*Attorneys for Defendant  
United States of America*